

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 9, 2008 has been entered.

Response to Amendment

2. The rejection of claims 1-6 and 43-48 under 35 U.S.C. 103(a) as being unpatentable over Dexheimer 6,706,844 B2 in view of Uchida 5,545,697 is moot in view of applicants' amendments.

3. The rejection of claims 1-6 and 43-48 under 35 U.S.C. 103(a) as being unpatentable over Fujino et al., 6,399,199 B1 taken alone or alternatively in view of European Patent Publication EP 367,014 (Shimizu) is moot in view of applicants' amendments.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2, 5-6, 44, and 47-49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

More specifically, claim 2 is indefinite because the claim sets forth a "prepreg of carbon fiber reinforced plastic, which comprises a matrix resin composition....and a fibrous material." While the preamble sets forth a prepreg of carbon fiber, the body of the claim does not require carbon fibers. Accordingly, the metes and bounds for which patent protection is being sought are not clear. Claims 5-6, 44, and 47-49 are indefinite for the reasons stated in claim 2.

In addition, claims 6 and 48 are indefinite because they rely upon cancelled subject matter. Accordingly, the metes and bounds for which patent protection is being sought are not clear.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 2, 5-6, 44, and 47-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blenner et al. 4,738,999 (Blenner).

Blenner discloses a fiber reinforced composite comprising a matrix resin composition containing a bifunctional and/or trifunctional isocyanate and a polyol, and a fibrous material, wherein the polyol can have a molecular weight within the instant claimed range and the matrix, per claim 2. Regarding claims 5-6, Blenner teaches that polyether diols can be used, although silent as to polypropylene glycol. In this concern, it is the examiner's position that the selection of polypropylene glycol is a preferential selection of one polyether diol from among many being selected for its' art recognized purpose. Accordingly, in the absence of factual evidence to the contrary, this selection

is not construed to be a matter of invention. Blenner discloses that the matrix can be cured at temperatures within the present claimed range. This teaching would render obvious the requirement that the matrix have a Tg within said range. Also, Blenner teaches that chain extenders do not have to be present. Regarding claims 44 and 47-48, Blenner teaches curing the composition to form a fiber reinforced plastic. As to claim 49, Blenner teaches the same type of components as those contemplated by applicants in present claim 2, which has a curing temperature within the instant claimed range, accordingly, the examiner has reason to believe that the pot life and Tg can be substantially as claimed as well, in the absence of factual evidence to the contrary. Applicants are invited to provide said evidence. See entire document, in particular abstract, column 3, line 29-56, column 2, lines 17-37 and 64-68 and column 5, lines 18-27. Blenner does not specifically teach a molar ratio as a functional group of liquid isocyanate to polyol within the claimed range. In this regard, it is the examiner's position that since the result sought and the ingredients used were known, it was within the expected skills of one having ordinary skill in this art to arrive at the optimum proportion of those ingredients. *In re Reese*, 129 USPQ 402 (CCPA 1961).

Therefore, the teachings of Blenner would have rendered obvious the invention as claimed in present claims 2, 5-6, 44, and 47-49.

Double Patenting

8. Claim 2 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/492,940. Although the conflicting claims are not identical, they are not patentably

distinct from each other because the claim of the present invention fully encompasses claim 1 of the copending application. Also, it should be noted that the chain extender does not necessarily have to be present in the copending composition.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Arguments

9. Applicant's arguments with respect to claims 2, 5-6, 44, and 47-48 have been considered but are moot in view of the new ground(s) of rejection.

No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill Gray whose telephone number is 571-272-1524. The examiner can normally be reached on M-Th and alternate Fridays 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton I. Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jill Gray
Primary Examiner
Art Unit 1794

/Jill Gray/
Primary Examiner, Art Unit 1794